

**Introduced by Senator Ducheny**

February 19, 2010

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An act to add Chapter 2.01 (commencing with Section 10490.10) to Part 2 of Division 2 of the Public Contract Code, relating to state contracts.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1249, as introduced, Ducheny. Contracting by state agencies: best value competitive bid contracts.

Existing law governs contracting between state agencies and private contractors, sets forth requirements for the bidding, awarding, and overseeing of contracts for construction projects, and regulates the awarding of contracts for the purchase of goods and services.

This bill would require competitive bid contracts for construction projects, including, but not limited to, projects of the California State University, contracts for goods and services, and contracts for information technology acquisition, to be awarded as best value competitive bid contracts, as defined, taking into consideration, when awarding the contract, the total direct and indirect economic benefit to the state of the proposed contract, as prescribed. This bill would authorize the Director of General Services to adopt regulations to assist state agencies in implementing these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 2.01 (commencing with Section  
2 10490.10) is added to Part 2 of Division 2 of the Public Contract

Code, immediately following Chapter 2 (commencing with Section 10290), to read:

CHAPTER 2.01. BEST VALUE COMPETITIVE BID CONTRACTS

10490.10. (a) Notwithstanding any provision of law, commencing the effective date of this chapter, every contract that would otherwise be required to be awarded on a competitive basis pursuant to Chapter 1 (commencing with Section 10100), Chapter 2 (commencing with Section 10290), Chapter 2.5 (commencing with Section 10700), and Chapter 3 (commencing with Section 12100), shall be awarded, instead, as a best value competitive bid contract to the bid or proposal that presents the best overall value to the state.

(b) For purposes of this chapter “best value competitive bid contract” means a contract that is awarded on a competitive process that is not based merely on the lowest direct cost to the state under the contract, but rather is awarded to the bidder that presents the overall best value to the state after consideration of the total direct and indirect economic benefit to the state under the contract, including, but not limited to, all of the following:

(1) The direct cost of the contract, including, but not limited to, materials, goods, and services.

(2) Indirect value to the state generated by the contract, including, but not limited to, an analysis of the proposed contract to determine all of the following:

(A) (i) The total projected indirect revenue to the state generated by the wages that the contractor and subcontractors, if any, propose to pay their workers in performing under the contract.

(ii) The total projected indirect revenue to California local governments generated by the wages that the contractor and subcontractors, if any, propose to pay their workers in performing under the contract and the indirect revenue to the state generated thereby.

(B) (i) The total projected indirect revenue to the state generated from the goods and materials that the contractor and subcontractors, if any, propose to purchase or provide in performing under the contract.

(ii) The total projected indirect revenue to California local governments generated by the goods and materials that the

1 contractor and subcontractors, if any, propose to purchase or deliver  
2 in performing under the contract and the indirect revenue to the  
3 state generated thereby.

4 (iii) The indirect economic benefit to the state generated by the  
5 economic activity related to the production of the goods and  
6 materials to be purchased or delivered under the contract.

7 (c) The Director of General Services shall adopt regulations  
8 that shall take effect immediately and are exempt from the  
9 rulemaking provisions of the Administrative Procedure Act to  
10 provide guidance to state agencies on best methods and practices  
11 and a related matrix to assist those agencies in determining the  
12 overall best value.

13 (d) In determining the overall economic benefit to the state of  
14 a proposed contract pursuant to this section, state agencies shall  
15 consider, to the extent not prohibited under federal law, the location  
16 where the wages are to be paid and the location where the products  
17 or materials are to be manufactured or produced.